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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,700	06/16/2005	Scott E Hall	US020550	6576
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EXAMINER				
CHIN, RANDALL E				
ART UNIT		PAPER NUMBER		
3723				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,700

Applicant(s)

HALL, SCOTT E

Examiner

Randall Chin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. Applicant is respectfully requested in providing a copy of foreign cited reference. **FR 2169457**. Applicant states that a copy of such reference has been submitted but no such copy was received by the Office.

Specification

2. The disclosure is objected to because of the following informalities: Applicant is respectfully requested in updating U.S. Patent Application Serial No. information for 10/137,962, as set forth on p. 3, line 14. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant's remarks are noted, however, the 35 U.S.C. 112, second paragraph rejection is being maintained for claims 15 and 16.

The Examiner is not disputing the fact that Applicant may recite functional recitations and/or inferential recitation of structure. Such is not at issue. The issue is that the body of claim 15 is inconsistent with that set forth in the preamble.

The issue for independent claim 15 is that the preamble is **only reciting** "[A] brushhead assembly portion of a power toothbrush" and therefore the "handle portion" and any joining assemblies attached to the handle portion would not be attributed any patentable weight and, therefore, the scope of the claim is vague and indefinite. Further, for example, no patentable merit is attributed to the entire recitation "...from the handle portion of the toothbrush upon application of an axial force", since the "handle portion" is not being positively claimed and only a "brushhead assembly portion" has been positively claimed. Therefore, the scope of the claim is unclear because the body of the claim is inconsistent with the preamble of the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Peot 4,777,393 (hereinafter Peot).

As well as claim 1 is understood, the patent to Peot discloses in Figs. 15 and 16 a system for joining an appliance body having a driving assembly therein to a driven

member assembly which includes a workpiece element having a torsional axis of movement, comprising a plurality of joining assemblies for removably attaching said driven member assembly to said appliance body, wherein the joining assemblies are each separate from the torsional axis of the workpiece element, wherein the joining assemblies each include a mating member on one of a) the appliance body or b) the driven member assembly at 58, 58 (Fig. 16) and an associated receiving element on the other thereof (not shown but disclosed at col. 7, lines 38-47), wherein the mating members and the receiving elements have such a configuration, respectively, and mate in such a manner that there is "substantially no lost motion" (a broad phrase here) for the workpiece element during operation of the appliance and such that the driven member assembly is readily removable, if so desired, from the appliance body "upon application of an axial force." It should be noted that such quoted phrase is merely functional in form and that claim 1 is **only** claiming a "system for joining", which Peot clearly discloses. Claim 1 is only claiming a "system for joining" so the quoted phrase "upon application of an axial force" is not accorded patentable merit since the "driven member assembly" and "appliance body" are not positively claimed (see preamble).

As for claim 2, in Peot, the configuration of the mating members and receiving elements is such that compression forces sufficient to maintain contact therebetween are deemed always present during torque action of a drive shaft on which the workpiece is mounted.

As for claim 3, Peot teaches three spaced joining assemblies 58, 58, 58 (Fig. 16) located around the periphery of the interface between the appliance body and the driven member assembly.

As for claim 4, the mating member of each joining assembly has a non-circular cross-section (at least in side view) and the associated receiving element has a similar non-circular cross-section (also in side view), such that the receiving element and the mating member are capable of mating together.

As for claim 5, the appliance body and the driven member assembly, respectively, include a handle portion and a head portion "of an oral care appliance" (not positively recited nor is there any structure positively recited to set forth such "oral care appliance").

As for claim 6 reciting that the oral care appliance is a power toothbrush, as stated above, claim 1 is merely reciting "[A] system for joining..." and does not positively recite the oral care appliance.

As for claim 7, there are registration elements 50, 52, 134, 136 on the appliance body which mate with the driven member assembly (col. 11, lines 12-14; Figs. 3 and 17), the registration elements producing a proper orientation between the appliance body and the driven member assembly as the appliance body is joined to the driven member assembly.

As for claim 8, the "mating member" (a broad phrase) extends from the appliance body and the receiving element is in the driven member assembly (Figs. 16 and 17).

As for claim 9, the mating members comprise spaced blade elements in the appliance body and the receiving elements comprise spring assemblies which clamp onto the blade elements with a compression force (col. 7, lines 44-47).

7. Claims 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by McDougall 5,617,601 (hereinafter McDougall).

As for claim 10, the patent to McDougall discloses in Figs. 9 and 10 an oral care appliance 502, comprising an appliance body 506 having a driving assembly therein, a driven member assembly 508 which includes a workpiece element having a torsional axis of movement and wherein the workpiece element includes a brushhead 100, and a coupling structure (Figs. 9B and 10) for joining the appliance body 506 to the driven member assembly 508, the coupling structure including a plurality of joining assemblies for removably attaching the driven member assembly to the appliance body, wherein the joining assemblies are each separate from the torsional axis of the workpiece element, wherein each joining assembly includes a mating member 513 from one of a) the appliance body or b) the driven member assembly and an associated receiving element 515 in the other thereof, for receiving said mating member, wherein the mating members and the receiving elements have such a configuration, respectively, and mate in such a manner that there is "substantially no lost motion" (a broad phrase here) for the workpiece element during operation of the appliance, and such that the driven member assembly is readily removable from the appliance body "upon application of an axial force" (col. 5, lines 26-29). As for the quoted phrase, such recitation is deemed

met by McDougall and such phrase is merely functional. No adequate structure has been set forth in claim 10 to define any standard as to whether the phrase "substantially no lost motion" is met or not met. Merely reciting "joining assemblies" for the coupling structure is insufficient and rather broad.

As for claim 11, there are three spaced joining assemblies arranged around the periphery of the interface between the appliance body and the driven member assembly if joining assembly 512, 518 is included (Fig. 10).

As for claim 12, the mating member 513 of each joining assembly has a non-circular cross-section and the associated receiving element 515 has a similar non-circular cross-section, such that the receiving element and the mating member are capable of mating together (Fig. 10).

As for claim 13, the mating member 513 extends from the appliance body and the receiving element 515 is in the driven member assembly.

As for claim 14, the mating members also include spaced blade elements in the appliance body at grooves/shoulders 510/511 and the receiving elements comprise spring assemblies defined by legs 516 which clamp onto the blade elements with a compressive force (col. 5, lines 17-25).

As for claim 15, McDougall teaches in Figs. 9 and 10 a brushhead assembly portion of "a power toothbrush" (not positively recited) which is joinable to and removable from "a handle portion" (not positively recited) of the toothbrush by a plurality of joining assemblies, the joining assemblies being separate from a torsional axis of movement of a brushhead workpiece portion 508 of the brushhead assembly 100,

comprising a brushhead assembly which includes a brushhead workpiece element, wherein the brushhead assembly includes a plurality of joining members 515 which mate with associated second joining members in "the handle portion" (not positively recited) to form joining assemblies, wherein the first joining members 515 have such a configuration, relative to the configuration of the associated second joining members and mate therewith in such a manner that there is "substantially no lost motion" (a broad phrase here) of the workpiece element during operation of "the toothbrush" (not positively recited) and such that the brushhead assembly is readily removable from "the handle portion" (not positively recited) of "the toothbrush" (not positively recited) "upon application of an axial force." It should be noted that such quoted phrase is merely functional in form and that claim 15 is **only** claiming a "brushhead assembly", which McDougall clearly discloses. Claim 15 is only claiming a "brushhead assembly" so the quoted phrase "upon application of an axial force" is not accorded patentable merit since the "appliance body", for example, is not positively claimed (see preamble).

As for claim 16, in McDougall, the configuration of the first joining member and the second joining members are such that compression forces sufficient to maintain contact therebetween are deemed always present during torque action of a drive shaft on which the workpiece portion is mounted.

Conclusion

8. Applicant's arguments filed 18 June 2009 have been fully considered but they are not persuasive. Applicant's arguments are deemed adequately addressed by the above art rejections.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-

1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723

